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PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032

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| | | |
|---|--------------------------|----------------|
| DECLARATION AND POWER OF ATTORNEY FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) <input type="checkbox"/> Declaration Submitted with Initial Filing OR <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing (Surcharge (37 CFR 1.16(e)) required) | Attorney Docket Number | DEP5249 |
| | First Named Inventor | Sutton et al. |
| | COMPLETE IF KNOWN | |
| | Application Number | 10/826,186 |
| | Filing Date | April 16, 2004 |
| | Group Art Unit | 3738 |
| | Examiner Name | |

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Intervertebral Disc with Monitoring and Adjusting Capabilities
(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 04/16/2004 as United States Application Number or PCT International Application Number 10/826,186.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? YES NO |
|---|---------|-------------------------------------|--|--|
| | | | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:



DECLARATION - Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

| Application Number(s) | Filing Date (MM/DD/YYYY) | |
|-----------------------|--------------------------|--|
| | | <input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto. |

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| Application Serial No. | Filing Date | Status |
|------------------------|-------------|----------------------------------|
| | | Patented Patented Patented |

I hereby appoint:

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☐ Practitioner(s) named below:
Name

Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Address all telephone calls to Tom DiMauro at telephone number (508) 880-8401.

Direct all correspondence to: Customer Number
☒ or Bar Code Label **000027777** OR ☐ Correspondence address below

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ZIP

Country

Telephone:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name
(first and middle (if any)) Jeffrey Karl

Family Name
or Surname Sutton

Inventor's
Signature

Date 7-6-04

Residence: City Medway

State MA

Country US

Citizenship US

Mailing Address 6 Longmeadow Lane

City Medway

State MA

ZIP 02053

Country US

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NAME OF SECOND INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name
(first and middle (if any)) Edward John

Family Name
or Surname Crowe

Inventor's
Signature

Date 7-6-04

Residence: City Cohasset

State MA

Country US

Citizenship US

Mailing Address 16 Stanton Lane

City Cohasset

State MA

ZIP 02025

Country US

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NAME OF THIRD INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name
(first and middle (if any)) Kristy Lynn

Family Name
or Surname Davis

Inventor's
Signature

Date 7/6/04

Residence: City Smithfield

State RI

Country US

Citizenship US

Mailing Address 29 Maureen Drive

City Smithfield

State RI

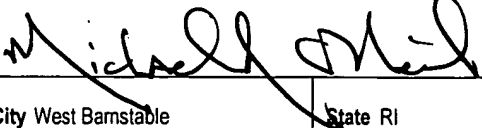
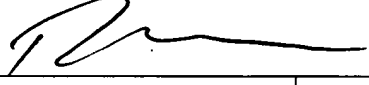
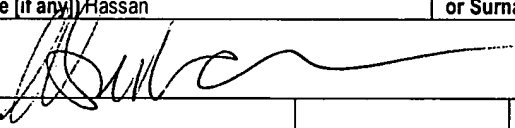
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Country US

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NAME OF FOURTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

| | | | |
|---|----------|---|----------------|
| Given Name (first and middle (if any)) Michael | | Family Name or Surname O'Neil | |
| Inventor's Signature  | | Date 7/6/04 | |
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| NAME OF FOURTH INVENTOR: | | <input type="checkbox"/> A petition has been filed for this unsigned inventor | |
| Given Name (first and middle (if any)) Richard | | Family Name or Surname Pellegrino | |
| Inventor's Signature  | | Date 7/6/04 | |
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| Mailing Address 29 Dairy Drive | | | |
| City Upton | State MA | ZIP 01568 | Country US |
| I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. | | | |
| NAME OF FOURTH INVENTOR: | | <input type="checkbox"/> A petition has been filed for this unsigned inventor | |
| Given Name (first and middle (if any)) Hassan | | Family Name or Surname Serhan | |
| Inventor's Signature  | | Date 7/6/04 | |
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